

ORDINANCE NO. 911

AN ORDINANCE PROVIDING FOR THE ABATEMENT AND REMOVAL AS PUBLIC NUISANCES OF ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES OR PARTS THEREOF FROM PRIVATE PROPERTY OR PUBLIC PROPERTY NOT INCLUDING HIGHWAYS AND RECOVERY OF COSTS OF ADMINISTRATION THEREOF AS AUTHORIZED BY SECTION 22660 VEHICLE CODE.

The City Council of the City of Lodi, does ordain as follows:

SECTION 1. FINDINGS AND DECLARATIONS: In addition to and in accordance with the determination made and the authority granted by the State of California under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisance, the City Council of the City of Lodi, hereby makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property not including highways is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof, on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this ordinance.

SECTION 2. EXCEPTIONS: This Ordinance shall not apply to:

(a) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(b) A vehicle ~~or~~ part thereof which is stored ~~or~~ parked in a lawful manner ~~on~~ private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code and this Ordinance.

(c) This Ordinance shall not apply to a vehicle or part thereof which is located behind a solid fence six (6) feet in height or which is not plainly visible from a highway.

SECTION 3. DEFINITIONS: The following words, and phrases when used in this Ordinance, shall be construed to have the following meaning:

(a) The term "vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails ~~or~~ tracks.

(b) The term "highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

(c) The term "public property" does not include "highway".

SECTION 4. NON-EXCLUSIVE REGULATION: This Ordinance is not the exclusive regulation of abandoned, wrecked, dismantled ~~or~~ inoperative vehicles within the incorporated areas of the City of Lodi. It shall supplement ~~and~~ be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City of Lodi, the State or any other legal entity or agency having jurisdiction.

SECTION 5. ADMINISTRATION: Except as otherwise provided

herein, the provisions of this Ordinance shall be administered and enforced by the Planning Director. In the enforcement of this Ordinance, the Planning Director and his deputies may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant to this Ordinance.

SECTION 6. CONTRACTOR OR FRANCHISE HOLDER - ENTRY TO REMOVE VEHICLE: When the City Council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this Ordinance.

SECTION 7. ADMINISTRATIVE COSTS: The City Council shall from time to time by resolution, determine and fix an amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or part thereof) under this Ordinance.

SECTION 8. PUBLIC HEARING - NOTICE REQUIREMENTS: A public hearing shall be held on the question of abatement and removal of the vehicle or part thereof as an abandoned, wrecked, dismantled or inoperative vehicle and the assessment of the administrative costs and the cost of removal of the vehicle or part thereof against the property on which it is located. Notice of hearing shall be mailed at least ten (10) days before the hearing by certified mail, with a five-day return requested to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership. If any of the foregoing notices are returned undelivered by the United States Post Office, the hearing shall be continued to a date not less than ten (10) days from the date of such return.

SECTION 9. CALIFORNIA HIGHWAY PATROL - NOTICE: Notice of hearing shall **also** be given to the California Highway Patrol identifying the vehicle or part thereof proposed for removal, such notice to be mailed at least ten (10) days prior to the public hearing.

SECTION 10. PUBLIC HEARING BY BUILDING INSPECTOR: All hearings under this Ordinance shall be held before the Planning Director who shall hear all facts and testimony deemed pertinent. Said facts and testimony may include testimony on the condition of the vehicle or part thereof and the circumstances concerning its location **on** the said private property or public property. The Planning Director shall not be limited by the technical rules of evidence. The **owner** of the land **on** which the vehicle is located may appear in person at the hearing or present **a** written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle **on** the land, with his **reasons** for such denial.

The Planning Director may impose such condition\$ and take such other action **as** he deems appropriate under the circumstances to carry out the purpose of this Ordinance. The Planning Director may delay **the** time for removal of the vehicle or part thereof if, in his opinion, the circumstances justify it. At the conclusion of the public hearing, **the** Planning Director may find that **a** vehicle or part thereof has been abandoned, wrecked, dismantled **or** is inoperative **on** private **or** public **!property** and order the same removed from the property **as a** public nuisance and disposed of **as** hereinafter provided and determine **the** administrative costs and the cost of removal to be charged against the **owner** of the parcel of land **on** which the vehicle or part thereof is located. The order requiring removal shall include **a** description of the vehicle **or** part thereof and the correct identification number and license number of the vehicle. if available at the site.

If it is determined at the hearing that the vehicle **was** placed on the land without the consent of the landowner and that he has not

subsequently acquiesced in its presence, the Planning Director shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such **costs** from such landowner.

If **an** interested party makes **a** written presentation to the Planning Director but does not appear, he shall be notified in writing of the decision.

SECTION 11. APPEAL TO CITY COUNCIL: Any interested party may appeal the decision of the Planning Director by filing a written notice of appeal with the Planning Director within five (5) days after the decision.

Such appeal shall be heard by **the** City Council which may affirm, amend or **reverse** the order or **take** other action deemed appropriate.

The City Council shall give written notice of the time and place of the hearing **to** the appellant and those persons specified in Section 8.

In conducting the hearing, the City Council shall not be limited by the technical rules of evidence.

SECTION 12. REMOVAL OF VEHICLE: Five (5) days after adoption of the order declaring the vehicle or parts thereof to be **a** public nuisance, five (5) days from the date of mailing of notice of the decision if such notice is required by Section 10, or fifteen (15) days after such action of the City Council authorizing the removal following appeal, the vehicles or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard. After vehicle has been removed, it shall **not** thereafter be reconstructed or made operable.

SECTION 13. NOTICE TO DEPARTMENT OF MOTOR VEHICLES:

Within five (5) days after the date of removal of the vehicle **or** part thereof, notice shall be given to the Department of Motor Vehicles

identifying the vehicle or part thereof removed. At the ~~same~~ time, there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates.

SECTION 14. ASSESSMENT OF **COSTS**: If the administrative costs and the cost of removal which are charged against the **owner** of a parcel of land pursuant to Section 10 ~~are~~ not paid within thirty (30) days of the date of the order, or the final disposition of ~~an~~ appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 25845 of the Government Code and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other taxes.

SECTION 15. UNLAWFUL TO ABANDON, PARK, STORE OR LEAVE VEHICLE: It shall be unlawful for any person to abandon, park, store or leave or permit the abandonment, parking, storing or leaving of any licensed or unlicensed vehicle or part thereof which is in an abandoned, wrecked, dismantled or inoperative condition upon any private property or public property not including highways within the incorporated area of the City of Lodi for a period in excess of seven (7) days **unless** such vehicle or part thereof is completely enclosed within a building in a lawful manner where it is not plainly visible from the street or other public or private property or unless such vehicle or part thereof is located behind a solid **board** fence six (6) feet in height or which is not plainly visible from a highway or **unless** such vehicle or part thereof is stored or parked in a lawful manner ~~on~~ private property in connection with the ~~business~~ of a licensed dismantler, licensed vehicle dealer or a junkyard.

SECTION 16. UNLAWFUL TO REFUSE TO COMPLY WITH ORDER: It shall be unlawful for any **person** to fail or **refuse** to remove **an** abandoned, wrecked, dismantled or inoperative vehicle or part thereof or refuse to abate such nuisance when ordered to do **so** in accordance with the abatement provisions of this Ordinance or State Law where

such State Law is applicable.

SECTION 17. EFFECTIVE DATE: This ordinance shall take effect and be in force thirty (30) days after its passage, and shall **be** published once in the "Lodi News Sentinel," a newspaper of general circulation printed and published in the City of Lodi, State of California.

Approved this 8th day of October, 1969.

JERALD KIRSTEN, Mayor

Attest: Bessie L. Bennett
City Clerk

State of California

County of **San** Joaquin, ss.

I, Bessie L. Bennett, City Clerk of the City of Lodi, hereby certify that Ordinance No. 911 **was** introduced at a **regular** meeting of the City Council of the City of Lodi held September 17, 1969, and **was** thereafter passed, adopted and ordered to print at **an** adjourned regular meeting held October 8, 1969, by the following vote:

Ayes: Councilmen - BROWN, CULBERTSON, HUNNELL,
SCHAFFER and KIRSTEN

Noes: Councilmen - **None**

Absent: Councilmen - None

I further certify that Ordinance No. 911 **was** approved **and** signed by the Mayor **on** the date of its passage and the **same** has been published pursuant to law.

BESSIE L. BENNETT
City Clerk